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In the

Supreme Court of the United States

No. 552

UNITED STATES OF AMERICA,
Respondent

v.

CAROL LEE RAGLAND AND
ARTHUR ELWOOD WILLIAMS,
Petitioners

Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

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The defendants, Carol Lee Ragland and Arthur Elwood Williams, pray that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fourth Circuit.

OPINION BELOW

On January 5, 1962, pursuant to a jury's verdict of "guilty" a judgment of conviction was entered in the United States District Court for the District of Maryland adjudging the defendants guilty of conspiracy to possess sugar intended to be used in the production of distilled spirits (18 U. S. C. A. 371; 26 U. S. C. A. 5686(a)), and of the substantive offense of unlawfully possessing sugar intended

for use in violating the Internal Revenue Laws. Prison sentences were imposed upon the defendants. From this judgment of conviction, the petitioners appeal to the United States Court of Appeals for the Fourth Circuit. The opinion and judgment of the United States Court of Appeals for the Fourth Circuit, was entered on August 21, 1962, upholding the decision of the United States District Court for the District of Maryland.

JURISDICTION

The decision of the United States Court of Appeals for the Fourth Circuit, was entered on August 21, 1962. The statutory basis for attempting to invoke the jurisdiction of this court is Title 28, Section 1254 United States Code.

QUESTIONS PRESENTED

The questions presented are:

1. Whether or not the United States Court of Appeals for the Fourth Circuit correctly interpreted prior decisions of this court and;

2. Whether or not the decision of the United States Court of Appeals deprived the petitioners of a constitutional right and;

3. Whether or not there was sufficient evidence for the petitioners to have been convicted in the United States District Court, which conviction was upheld by the Court of Appeals.

REASONS FOR GRANTING THE WRIT

The judgment of the Court of Appeals upholding the judgment of the District Court is a unique and erroneous interpretation of the criminal law as applied by this court

and other Federal Courts. This decision, in effect, allows conviction of a defendant who:

1. Possesses sugar in large quantities, and

2. Takes advantage of his constitutional privilege, i.e., the privilege against self-incrimination.

Throughout its opinion the Court of Appeals placed considerable emphasis upon the failure of the defendants to explain the intended use of the sugar which the petitioners possessed. At page 11 of its opinion the Court of Appeals stated "it would seem that only Ragland and Williams, and possibly Leski, knew for what use the suspect sugar was intended and if the intended use was legitimate, it was peculiarly within their power to prove these facts, either by their testimony or that of others. Faced with the testimony of the Government, we are of the opinion that a situation was presented where the defendants remained silent at their peril. At page 8 of its opinion the Court of Appeals stated "it is noteworthy in this case that neither defendant testified nor offered any evidence at all to explain their possession of this large quantity of sugar". The theory the Court of Appeals seemed to be operating under was that once the prosecution has established a prima facie case then the defendant remains silent at his peril. The Court of Appeals cited *Wilson* v. *United States*, 162 U. S. 613; *Graves* v. *United States*, 150 U. S. 118; *Crawley* v. *United States*, 268 Fed. 2d 808 (4th Cir.); and *Holland* v. *United States*, 348 U. S. 121. In the *Wilson* case, the defendant was found to possess certain property which belonged to the decedent shortly after the decedent was murdered. In the *Graves* case, the defendant's wife did not appear at the trial of the defendant although she was present in the city wherein the trial took place. The prosecuting attorney commented on the failure of the defendant to produce his wife, she having

allegedly been with the defendant at a place other than where the murder was committed, at the time the murder was committed. In the *Holland* case, the defendants argued that the Government failed to negate all sources of non-taxable income. This Court, in partial response to the Hollands, cited the case of *Yee Hem* v. *United States*, 268 U. S. 178. In the *Yee Hem* case, the defendant was charged with possessing opium which had been unlawfully imported into the United States. The statute under which the defendant was convicted contained a provision making possession of opium sufficient evidence to convict absent an explanation of such possession satisfactory to the jury. In the *Crawley* case, the defendant was found to possess a large number of $100.00 bills which had theretofore been stolen during the course of a bank robbery. It is respectfully submitted that none of these cases support the theory of the Court of Appeals. In the *Wilson* case, the crime of murder was clearly established by evidence independent of Wilson's explanation of the possession of the decedent's property, or the lack of such explanation. The question of Wilson's connection with the crime of murder was the question dealing with his possessing the decedent's property. His failure to satisfactorily explain such possession helped to establish that he committed the crime, i.e., murder. Such failure of explanation was not used to establish one of the essential elements showing the crime to have been committed.

In the *Crawley* case, the crime of bank robbery was established by evidence independent of the failure of the defendant to explain his possession of the $100.00 bills and his sudden rise in affluence. The failure of explanation by Crawley was evidence of his connection with the crime. It was not evidence of the establishment of an essential element of the crime.

In the *Holland* case, unreported income was shown and

this court held that the showing of "likely source" was satisfactory to establish that the increase in net worth was attributable to unreported taxable income.

In the *Yee Hem* case the statute under which the defendant was prosecuted made the mere possession of opium a crime unless the defendant established that the opium was imported unlawfully. The opium, in effect, by the statute was made contraband.

In its decision the Circuit Court used the failure of the defendants to explain the possession of the sugar as evidence establishing one of the essential elements of the crime charged, i.e., the intended unlawful use. The Government had to prove two elements to establish the crime charged:

1. The possession of property (sugar) and,

2. Intent that such property be used to violate the Internal Revenue Laws.

Each element had to be proven beyond a reasonable doubt. Assuming that the Government proved possession, the failure of the defendants to prove an intended lawful use did not create a presumption that would satisfy the requirement that the Government prove an intended unlawful use. Such a rule as advocated in the Court of Appeals decision, would place sugar in the same category as opium. It would shift the burden of proof as to an essential element of the crime from the Government to the defendant. The rule in *Wilson, Graves, Crawley,* and other decisions of a like nature require proof of all elements of the crime until a prima facie showing has been made before shifting the burden of proof to the defendant. Here the Circuit Court shifted the burden to the defendant in order to establish a prima facie case. The failure of explanation by the petitioners was taken by the Circuit Court, as evidence to show that the petitioners intended their unlawful use, not to show that the defend-